

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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CIRILO UCHARIMA ALVARADO,

Plaintiff,

Case No. 3:22-CV-00249-MMD-CLB

v.

WESTERN RANGE ASSOCIATION,

Defendant.

ORDER RE: CASE MANAGEMENT REPORT

On September 7, 2022, the Court ordered the parties to file a Case Management Report (“CMR”) addressing discovery related issues. On October 6, 2022, the parties filed their CMR. (ECF No. 33.) In this joint filing, the parties state they agree a discovery stay is appropriate pending determination of Defendant’s motion to dismiss. (ECF No. 33.) The parties also state that if the Court requires it, a stipulation to stay discovery will be submitted. (*Id.*)

As the Court states in its Standing Order, (ECF No. 6), the filing of a motion to dismiss does not stay discovery. Rather, the parties are required to comply with the rules of discovery as required by the Local Rules and the Federal Rules of Civil Procedure. See LR 26-1 *et. seq.*; Fed. R. Civ. Pro. 26 *et. seq.* In short, a party cannot simply refuse to engage in discovery due to the filing of a motion to dismiss any more than the parties can simply “agree” to forego the discovery mandated by the District of Nevada’s Local Rules or the Federal Rules of Civil Procedure. A stay of discovery is only imposed if it is ordered by the Court.

Generally, if a party believes discovery should be stayed pending a decision on the motion to dismiss, the party is required to file a motion to stay that directly addresses the factors articulated in *Kor Media Group, LLC v. Green*, 294 F.R.D. 579 (D. Nev. 2013) (citing *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597 (D. Nev. 2011)). If, however, the parties mutually agree a stay of discovery should be imposed while a motion to dismiss

1 is pending, the parties should file a stipulation requesting the Court order a stay of
2 discovery. Such a stipulation should provide a detailed explanation for the stay requested
3 and should set forth a deadline for the filing of a Discovery Plan and Scheduling Order in
4 the event the motion to dismiss is denied.

5 Therefore, the parties are **ORDERED** to file a stipulation accompanied by a
6 proposed order requesting a stay of discovery within **14 days** of the date of this order
7 which must provide a detailed explanation as to why a stay is proper and include a
8 deadline for filing a Discovery Plan and Scheduling Order if the motion to dismiss is
9 denied.

10 **IT IS SO ORDERED.**

11 **DATED:** October 7, 2022.

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13 **UNITED STATES MAGISTRATE JUDGE**
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